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OFFICE OF PETITIONS

In re Application of	:	
Jau-Chi Lai	:	DECISION ON PETITION TO
Application No. 10/632,982	:	WITHDRAW HOLDING OF
Filed: 4 August, 2003	:	ABANDONMENT
For: MOUSE PAD STRUCTURE	:	

This is a decision on the twice renewed petition filed on 12 March, 2006, to withdraw the holding of abandonment in the above-identified application.

The petition is **GRANTED**.

The application was held abandoned for failure to timely respond to the non-final Office action mailed on 4 June, 2004, which set a three (3) month shortened statutory period for reply. Notice of Abandonment was mailed on 30 December, 2004.

Petitioner, *pro se*, asserts that the Office action mailed on 4 June, 2004, was never received.

In the absence of any irregularity in the mailing of the non-final Office action, there is a strong presumption that the non-final Office action was properly mailed to practitioner at the address of record. This presumption may be overcome by a showing that the non-final Office action was not in fact received. The showing required to establish the failure to receive an Office communication must include a statement from the practitioner stating that the Office communication was not received by the practitioner and attesting to the fact that a search of the file jacket and docket records indicates that the Office action was not received. A copy of the docket record where the non-received Office action would have been entered had it been received and docketed must be attached to and referenced in practitioner's statement. See "Withdrawing the Holding of Abandonment When Office Actions Are Not Received" 1156 Official Gazette 53 (November 16, 1993) and M.P.E.P. § 711.03(c). The showing

outlined above may not be sufficient if there are circumstances that point to a conclusion that the non-final Office action may have been lost after receipt rather than a conclusion that the Office action was lost in the mail.

A review of the record indicates that the Office action was properly mailed to the petitioner at the correspondence address of record at the time of mailing. Thus, there was no irregularity in mailing the Office action on the part of the United States Patent and Trademark Office.

In support of the petition, the petitioner has submitted a statement by inventor Jau-Chi Lai stating that "a thorough search and investigation of the file jacket and docket records has been done indicating that the Office Action in question was not, in fact received from USPTO." A copy of petitioner's mail log book for June and July, 2004, showing where receipt of the Office action mailed on 4 June, 2004, would have been entered had the Office action in fact been received, is supplied with the petition. Petitioner has further provided a statement by his local agent stating that the Office action was not received. Lastly, petitioner has explained the change in address from "Chung-Ho" to "Junghe" by stating that they have the same translation in mandarin Chinese, and that the change occurred as a result of different spelling systems used by different local governments in Taiwan.

The petitioner has made a sufficient showing of nonreceipt of the Office action. Accordingly, the Notice of Abandonment is hereby vacated and the holding of abandonment withdrawn.

The petition is GRANTED.

The application file is being referred to Technology Center 3600 technical support staff for remailing of the non-final Office action mailed on 4 June, 2004. The period for reply will be reset from the mailing date thereof.

Telephone inquiries concerning this matter may be directed to the undersigned at (571)272-3231.



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